

FINAL
Signed:

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on January 20, 1999 at
3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: Sen. John C. Bohlinger (R)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Martha McGee, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 197, 1/14/1999
Executive Action: SB 99

HEARING ON SB 197

Sponsor: SEN. CHRIS CHRISTIAENS, SD 23, Cascade County

Proponents: Ardis Kay Loberg, Self, Foster and Adoptive Parent

Opponents: None

Opening Statement by Sponsor:

SEN. CHRIS CHRISTIAENS, SD 23, Cascade County, said the bill he was bringing to you today, is one that will be providing mental health outpatient counseling for foster parents who have experienced the death of a foster child who has been placed in their home. The reason he brings this forth is that he has worked with foster parents for a number of years. Most of these families who have had a child who has died while under their care have been our special needs children. Those who have needed special feeding tubes, who have various types of birth defects and other kinds of things. No matter how good a parent you are, when something happens and that child dies while under your care, you always start questioning, "was there something else I could have done." "Did I do everything in my power to make sure this occurrence would not have happened."

We have in place counseling through the state medical plan and for the counselors who are state employees to be able to receive counseling when something like this happens and they need it. But we are not providing a single thing for the foster parents. He can tell them that recently in Great Falls, they had a case where the child was to be picked up and placed in a permanent home within 24 hours and that child died. To make things worse, the address was published in the newspaper and the foster parent received hundreds of phone calls, including some from the real parents as to her negligence in caring for this child who died.

In a second incident the woman told him he could use her name, **Bobbie Curtis**, whom many of you know. She has been President of the Foster Parents for years. She had a child who died at age 16 and **Bobbie** had this child who needed tube feeding. She cared for him for almost 15 years when he passed away. You can imagine how you feel if you have a 15 year old child die under normal situations and not to have any thing available for mental health counseling for that parent.

He believes that they must do this type of thing at least one time at a minimum. One of the things he knows that has been talked about is that if they are going to put this in and provide the same kinds of counseling services available to state employees, in the state insurance plan. Then it would cost millions of dollars. He is telling them, yes ideally that is what he would like to see, but he also knows that due to budget constraints, that is not possible. He does think the counseling should be offered and there should be money set aside to help these parents cope with these severe losses. People are here to

answer some technical questions. This was not in the Governor's budget, and therefore they are unable to take a position.

Proponents' Testimony:

Ardis Kay Loberg, Self, Foster and Adoptive Parent of all kinds.

She has had experience with foster parents who had a death of a foster child. She can tell them if they have a family member who dies, you don't expect to get up and go to work the next day and carry on life as usual. This is also true about foster families. These are some of your most experienced parents who are caring for many many children in our state with special needs. She would say that a foster child is a special needs child by the nature of his placement.

The state has an investment in their foster families. There has been so much training put into these families that costs the department. There is an annual amount of training that is required again to keep up this licensing. The very fact that they have to go through a licensing every year is expensive to the department. For this type of event to happen to a very seasoned foster parent and then to have that foster parent say, "I can't do this any more," is a real waste to the state. She supports this bill and she encourages the committee to support this bill because of the investment that they have in the foster parents and because of the need they have for these foster parents.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. BARTLETT stated to **SEN. CHRISTIAENS** that she was not familiar with the statutes referenced in the bill. She questioned section 2 where it talks about a person who operates a youth care facility and provides substitute care. If that means just a regular foster home for example and substitute care and is there a substitute for medical care.

SEN. CHRISTIAENS said substitute care in the codes means full time care of a youth in a residential setting who is placed there by the department, another state agency, or a licensed child placing agency. A youth care facility is licensed by the department or the appropriate licensing authority in another state and in which facility substitute care is provided to the youth.

SEN. BARTLETT asked if those are the appropriate terms to use to cover the people that she thinks of as foster parents who take care of these kids in their own homes just if they were their own child.

SEN. CHRISTIAENS said yes.

Closing by Sponsor:

SEN. CHRISTIAENS said, the foster parent who spoke today said it all. These are families who are willing to take in our special needs kids, they are our responsibility, and we need to insure there is a good list of foster parents. This is the least they can do to help them remain healthy and take the next special needs child.

{Tape : 1; Side : A; Approx. Time Counter : 1 - 6}

EXECUTIVE ACTION ON SB 99

Discussion

Susan Fox, Legislative Staffer, clarified discussion about some amendments to **SB 99**, but nobody asked for those to be prepared.

SEN. FRED THOMAS stated he had a note that the amendment was left with the committee. He asked if there was an amendment to **SB 99**.

Susan Fox, Legislative Staffer stated it was the one proposed by **Susan Witte**, from Blue Cross and Blue Shield of MT.

EXHIBIT (phs15a01)

SEN. DUANE GRIMES clarified **Susan Witte's** proposed amendment was to remove "individual." He said that amendment could be done by the committee. There is another amendment to eliminate self funded **MEWAs** (Multiple Employer Welfare Arrangements), on line 22. He couldn't remember who mentioned it. It would be a separate amendment.

Motion: **SEN. THOMAS** moved to amend **SB 99** by striking the "independent policy holders." **Susan Fox** to prepare the amendment. He described the whole concept here is that you're on the group plan, well in this case with the county insuring the deputies. Unfortunately, a death in the family, an insured employee, that is left the surviving spouse and her family continue on. In essence a permanent **COBRA** (Comprehensive Omnibus

Budget Reduction Act of 1985), is where they would pay a premium. On an individual policy basis, this wouldn't exist. It would be their policy and there would be nothing to continue on anyway. So taking that out doesn't affect the intent of the legislation whatsoever. **Claudia Clifford**, with the Department of Insurance was present and he asked if she would clarify anything that he stated.

Claudia Clifford, with the **State Insurance Commissioner's Department** asked if they were to referring **Blue Cross and Blue Shield's** offer of amendments to take out "individual."

SEN. THOMAS answered, right.

Claudia Clifford stated it is redundant to keep it in. They can do either, keep it in or take it out. It is still going to apply. It doesn't make any difference because of the structure of the insurance code.

SEN. GRIMES stated to just clarify the amendment would be at the word "individual or" on line 16, and is there any additional places.

Susan Fox responded yes, once in the title in line 6, and also on page 2, line 3.

Motion: **SEN. THOMAS** moved that **SB 99 BE AMENDED TO STRIKE "individual or" in those three references.**

Vote: Motion **carried unanimously.**

SEN. THOMAS stated there was comments on removing **MEWAs** from the bill. He didn't remember the details of that discussion.

SEN. BARTLETT responded it had to do with the interplay between **ERISA** (Employee Retirement Income Security Act of 1974) and **MEWAs**, and not running afoul of that.

SEN. GRIMES asked if **Ms. Clifford** could address that.

Claudia Clifford stated to a certain extent they do regulate **MEWAs**. The law varies. But there is no harm in having reference in the areas that they do regulate **MEWAs**. There are clearly some **MEWAs** that are exempt from their jurisdiction under **ERISA** (Employee Retirement Income Security Act of 1974). They do have statutes and reference many insurance statutes to **MEWAs**.

Ms. Clifford explained some of you who don't know what **MEWAS** is, it is Multiple Employer Welfare Arrangements. In other words, groups of insurers that have a similar interest that come together and they commercially self fund and commercially insure.

SEN. THOMAS asked that if they struck out line 22 and line 23, self funded multiple welfare arrangement not regulated by **ERISA** would that leave anybody out that would otherwise have to provide the insurance for the deceased.

Claudia Clifford said that right now they don't current have a **MEWAs** that deals with peace officers. In the eventuality that they put together a **MEWAs**, that they do have regulatory authority over, then this all would not apply. But it wouldn't currently affect anyone because there are no **MEWAs** to apply to. She would propose they leave it in with the eventually that there is.

Motion: **SEN. GRIMES** moved that **SB 99 DO PASS AS AMENDED.**

SEN. BARTLETT stated that **Susan Witte** also asked the committee to consider a different effective date to provide an opportunity for the disability insurers in the state who are affected to transition to this new requirement. She asked **Ms. Clifford** what her opinion would be.

Claudia Clifford responded she would not encourage that amendment. She doesn't think it is any inconvenience for the insurers. They deal with **COBRA** individuals already. This is similar. Any provision in their policy they may need to adjust, they can do it on a timely basis. It is a small adjustment. They make small adjustments on their policies all the time.

SEN. THOMAS commented this is not going to affect a lot of people. It is retroactive, they may be talking about one person maybe right now. He is comfortable with it, the effective date as it is.

SEN. BISHOP indicated that he heard maybe five a year.

Claudia Clifford clarified one a year or less. That is one family a year.

SEN. ECK stated that she doesn't know if they have a policy now, but generally they have said they wouldn't put something in as effective on passage and approval, unless it was an unusual situation.

SEN. THOMAS said he would encourage them to do that in this case. He didn't know the time frame involved here precisely, but right now you could stay on **COBRA** for 18 months, following the acute situation of death. In this case, they are allowing individuals to stay on a policy, pay the premium and have continuous coverage without question. If they went with the regular October date, that may not be the case. He doesn't know that for sure, but that may not be the case in this individuals situation.

SEN. ECK agreed that was reasonable.

Vote: Motion **carried unanimously - 10 - 0.**

CHAIRMAN BISHOP asked the committee to listen to **SEN. EVE FRANKLIN**. She asked to make a **statement for the record**.

SEN. FRANKLIN stated for the **record**. **Chairman Bishop**, you are wiser than you know. Because after going home and reading this over, boy is it overkill. But just by way of disclosure and part of it is, she really thought she'd mislead the committee on **SB 101** when they passed the amendment on Monday, January 18, 1999. She thought she'd left out an important piece of information. She found **Chairman Bishop**, and said please please, she has a problem, an ethical dilemma, could she re-address the committee. She said he asked her if she had to call the **Ethics Committee**. She told him no, they could handle it in the committee, but what she was afraid was that she had left out some information on the amendment.

SEN. FRANKLIN said after close examination, **Chairman Bishop**, that she had given them exactly the right information. She was really embarrassed, but she asked if she could address the committee, because she is so thrilled to have a good committee. She really didn't want in anyway to damage the relationships on this committee or have anybody feel she slipped things over on them. It was her own error. On the amendment that they passed, on the Governors' AIDS Advisory Council, and the amendment is, "if the infectious disease is airborne, or if not, or if a report of disclosure is filed, this is Page 101," that the patient of the health care facility shall provide notification."

After they voted on that, and she had made this really clear explanation to the committee, that it just made it consistent with the language, she had an 11th hour fear that actually that wasn't true. But it was true. Anyway we did what we said we did. She went to the **Chairman** in a panic, but actually he was right, it was overkill. She explained it right, and that's the whole story.

Just so they know, for the record, her concern was that she was actually changing the intent of the bill quite honestly. Her concern was the way the bill was presented without the amendment, that it didn't require a notification of exposure. It was just blanket notification, but when she re-read the bill, that is not true. She was afraid the amendment had completely changed the bill as it came in, but when she re-read it, it didn't.

SEN. FRANKLIN responded that the bill currently and just for their information, it doesn't change the way it was brought in.

It is a big issue. She is sensitive to it particularly since

SEN. DEPRATU brought up that issue. She thought he went an extra mile to come and say okay, let's go with the bill the way it is and she in this moment of panic thought perhaps she had left out an important piece of information. Thank you she will sit down and shut up now.

CHAIRMAN BISHOP stated that being the case, he would sign it and send it on its way then. He had been holding it.

Discussion: **CHAIRMAN BISHOP** asked **SEN. BERRY** concerning the status of **SB 73**.

SEN. BERRY said they were going to put it on the calendar. To notify the nurses and the board to give everybody that opportunity, so he needs to do that.

CHAIRMAN BISHOP commented that the bill has already been heard.

SEN. BERRY stated he had a request. They can't respond any more can they.

CHAIRMAN BISHOP said yes then can.

SEN BERRY said he had a request for that date, they have been negotiating, so that is why he gave the secretary that date.

CHAIRMAN BISHOP said he'd let him find out about it and to let him know for sure.

SEN. THOMAS stated on **SB 114** he would get with **Hank Hudson** and tell him that they have got to get squared around so they can act on it in a few days. Sorry to report he doesn't have the wording on this bill

CHAIRMAN BISHOP asked **SEN. FRANKLIN** about **SB 103**.

SEN. FRANKLIN asked if they had any amendments. There was some discussion of amendments. She has not received any, and maybe the **Auditor's Office** maybe has received one set of amendments. She asked if she could have **Claudia Clifford** respond.

Claudia Clifford answered she believed that **ACLI, American Council of Life Insurance**, submitted amendments. At the time some of the other people who testified said they wanted amendments, but they haven't given anything to her at this point. She will tell then they drafted this bill at the end of last spring, they have had it distributed throughout the summer and fall. The last version that was introduced is at least 2 months old and copies were in the hands of all the named interested parties in this issue. All of the amendments of those entities that suggested they needed more amendments had not contacted their office prior to the hearing, or did so 15 minutes before the hearing. That is the status of the situation.

SEN. FRANKLIN stated that some of the issues, perhaps one of the issues that **Greg Van Horssen**, with **State Farm Insurance Company** brought up, probably was a non-issue. He did not approach her again with amendments after that with any explanations. His issue was disclosure and it was a non-issue under the bill, so she asked if **Susan Witte** was present and if they had any amendments.

Susan Witte answered they do.

CHAIRMAN BISHOP said they have a bunch of amendments. He is going to put this in a **Subcommittee**. **Chairman Bishop** appointed **SEN. THOMAS CHAIRMAN**, **SEN. GRIMES**, VC, and **SEN. FRANKLIN** as members to serve on the **Subcommittee on SB 103**.

SEN. THOMAS stated they can get all the amendments put together and see where they are.

{Tape : 1; Side : A; Approx. Time Counter : 6 - 23}

ADJOURNMENT

Adjournment: 3:30 P.M.

SEN. AL BISHOP, Chairman

MARTHA MCGEE, Secretary

AB/MM

EXHIBIT (phs15aad)